Supreme Court, U.S.
FILED

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No. OFFICE OF THE CLERK

IN THE

Supreme Court of the United States

DEANNA MORRIS,

Petitioner,

v.

ALES GROUP USA and ERIC DOMEL,

Respondent.

On Petition for a Writ of Certiorari of the United States Court of Appeals for the Second Circuit

PETITION FOR A WRIT OF CERTIORARI

DEANNA MORRIS
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QUESTION PRESENTED

1. Did the United States Courts for the Second Circuit mishandle pro se plaintiff's submissions and in doing so violated plaintiff's Constitutional and HIPPA rights? Were the documents docketed correctly?

2. Was plaintiff's Rule 60 Motion as per the relief indicated available to her in the United States Court of Appeals for the Second Circuit decision of 2/26/2008 filed timely? Judgment entry date is 07/02/2007 &07/03/2007 (Motion for Reconsideration was entered decided 7/27/2007) Plaintiff's submits her Rule 60 Motion on July 1st, 2008 which is 364 days after initial entry, within 1 year?

3. Upon the invitation of the Justices to submit additional documents to support their verbal acknowledgement the discrepancies raised at oral argument as supported by oral argument audio CD on 1/21/2010 yet in a decision written by someone who did not review the CD or was not present indicates, "*We have carefully reviewed plaintiff's submissions, and find nothing to substantiate her allegations*," thus giving the appearance of the continuing of a fraud upon the court. Did

the Justices do what they said they would do on the audio CD?

4. Was plaintiff's case addressed based on the merits? Where's the defendant's record and the "form many independent reasons" as stated? Why does the Judge indicate a "Report & Recommendation" in his decision but one was never entered into record or provided to the plaintiff from the Magistrate?

5. Why are the references citing this case indicates incorrect entry dates misleading anyone who reviews the case?

6. Was plaintiff denied equal access to the court while the foreign defendants were able to proceed with a fraud upon the court?

7. Was plaintiff improperly barred from economic recovery for writing the Magistrate's written orders on HIPPA authorizations forms protecting her rights as it pertains to HIPPA?

PARTIES TO THE PROCEEDING

All parties appear in the caption of the case on the cover page.

DEANNA MORRIS,

Petitioner, Appellee

v

ALES GROUP USA and ERIC DOMEL,

Respondent, Appellants

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STATUTES AND RULES

Title VII and Section 1981 claims pursuant to 28 U.S.C. § 1331 and 1343 (a) (4) and 42 U.S.C. § 2000e- (5)(f) under federal law, 42 U.S.C. § 2000e(b) and (h), etc. and as amended and indicated

Age Discrimination Act 29 U.S.C. §§ 621-634 and its amendments

Freedom of Information Act 5 U.S.C. § 552(a), IRC § 6103

Lily Ledbetter Fair Pay Act this act and the amendments made by this act take effect as in enacted on May 28, 2007 and apply to all claims of

discrimination in compensation under Title VII of the Civil Rights Acts

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Health Insurance Portability and Protection Act ... "HIPPA further contends that a covered entity from intimidating, threatening, coercing, discriminating against or otherwise taking retaliatory actions against (1) individuals for exercising HIPPA privacy rights and (2) individuals for filing a complaint with the US Department of Health and Human Services or testifying, assisting, or participating in an investigation about the covered entity's privacy

practices or reasonably opposing any practice prohibited by the regulation.

The Constitution of the United States

Federal Rules of Civil Procedure

American Bar Association Model Rules Rule 4.1 Truthfulness in Statements to Others. "*In the course of representing a client a lawyer shall not knowingly: (a) make a false statement of material fact or law to a third person.*"

Model Rule 3.3 provides: *"[a] lawyer shall not knowingly make a false statement of material fact or law to a tribunal.*"

DR 7-105 prohibits a lawyer from presenting or threatening to present "criminal charges solely to obtain advantage in a civil matter." Any administrative complaints made by Pro Se Plaintiff as a result of defendants actions were based on facts experienced and witnessed and would have been further supported by just and proper discovery (depositions and documentation request). Any uncertainties would have been further supported from testimony at trial.

Unfair Business Practices

INTRODUCTION

The Second Circuit's decisions are so far departed from the accepted and usual course of judicial proceedings calling for an exercise of this Court's supervisory power. The decisions were made in a way that directly conflicts with basic and fundamental constitutional rights and protections. Essentially the decisions of the Second Circuit were made based on a clear visible mishandling of this case giving the appearance that a genuine judiciary proceeding occurred when it did not. The Second Circuits findings are clearly erroneous and on numerous occasions, evidence contradicting theses assumptions and filings recorded into record were pointed out in pro se to attempt to be addressed based on the facts as they occurred not as they have been framed to be.

The Second Circuit mishandled case with improper docketing errors that gave the appearance the filings were untimely. Recordings into legal references are inaccurate as a result, discouraging anyone to consider that there was an abuse of

discretion or errors occurred. During oral argument the Justices verbally acknowledged seeing these errors, as the audio CD supports, requesting plaintiff to submit the record showing these improper entries. Letters to the Clerks of both the District Court and Court of Appeals was imposed upon to correct the errors as well.

The actions that have taken place leave the appearance of fraud upon the court. A decision produced by fraud upon the court is not in essence a decision at all, and never becomes final.

Plaintiff was denied equal access and retaliated against for exercising protected rights, privileges and benefits while the foreign defendants were permitted to sham the court, others, plaintiff and several of the United States organizations (including but not limited to the *Internal Revenue Service, Federal Trade Commission, Department of Homeland Security, Department of Justice, etc.*) A cover-up to conceal the defendants' known unlawful actions was permitted under the disguise that a legal proceeding was taking place.

The subtle but nonetheless coercive influence to force Pro Se Plaintiff, to relinquish basic rights (Constitutional & HIPPA Laws) with the psychological manipulation, intentionally not correcting errors when brought to the courts attention that undermines the integrity of this judicial process. To be victimized all over again was somewhat expected as long as all the facts would be available for the legal trier and reviewer of the facts. Plaintiff was denied access, "*these acts undermines the integrity of the judicial process and increasingly chills public confidence in the legal profession*," per "Ethics in Settlement: Lawyer Gamesmanship and Misrepresentations During Negotiations" By Karen M. Goodman, (member of the Ethics Subcommittee of the Employer Rights and Responsibilities Committee).

OPINION BELOW

The opinion of the United States Court of Appeals appears at Appendix 1a to the petition and is 08-

4575cv United States Court of Appeals for the Second Circuit.

The opinion of the United States Court of Appeals appears at 07-3849CV United States District Court for the Second Circuit.

The opinion of the United States District Court appears at 04CV08239 United States District Court for the Second Circuit.

The Scheduling Order of Magistrate of the United States District Court, October 14, 2005.

ENDORSEMENT from the Honorable Lorretta A. Preska, April 25, 2005

JURISDICTION

The date on which the United States Court of Appeals decided my case was May 24th, 2010. A timely petition for rehearing was filed in my case on June 7th, 2010 and June 28th, 2010. I visited the court on August 18th, 2010, no ruling had been made

on the reconsideration as my time to file in this Court was approaching.

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

5th Amendment, provides in pertinent part that "Nor be deprived of life, liberty or property, without due process of law... Due process was denied when a genuine hearing had been denied, a sham is permitted while those in positions of trust and authority ignore their judicial responsibilities.

6th Amendment, "In suits of common law where the value in controversy shall exceed twenty dollars, the right to trial by jury shall be preserved..." This would include manipulation and fraud on the Court where a conspiracy with lawyers to design a judgment suitable to a judge through the use of lawyers rules, judicial rules, court rules or otherwise trumped up legal technicalities, orders and instructions, which have effectively place "handcuff" on pro se plaintiff and denial of a "jury." All of these activities are no more than a denial of the right to a jury of the peers with the

constitutional authority to judge both the facts and the law in a case.

13th Amendment, provides in pertinent part that "Neither slavery nor involuntary servitude, except as a punishment of crime..., shall exist within the United States, or any place subject to their jurisdiction." The acts of the persons in positions of trust and authority through their private conduct in conspiracy with the lawyer defendants, caused the court to effectuate this pro se plaintiff to compulsory involuntary servitude", an act punishable under Title 18 § 1584 as a criminal act.

14th Amendment, Due Process Clause and Equal Protection clause (Section 1), expressly declares no state shall make or enforce any law which shall abridge the privilege or immunities or citizens of the United States; nor shall any State deprive any person of life, liberty, or protect without due process of the law..."

14th Amendment, Section 3, "No person shall hold any office, civil or military under the United States

or under any State... who having previously taken an oath, as an executive or judicial officer of any State to support the Constitution of the United

States, shall have engaged in insurrection or rebellion against the same..."

Civil Rights Issues under Title 42 USC including but not limited to § 1981, etc.

STATEMENT

On August 31, 2004 I filed a complaint in the US District Court for Title VII of the Civil Rights Act of 1964 ... and Age Discrimination in Employment Act of 1990 ... against Ales Group USA and Eric Domel. At the Clerks request, the defendant Eric Domel name was "*write-out*" because she claimed he was covered under the Corporation. (original document shows this intended intent.)

Ales Group USA is a French Beauty Corporation who manufactures and distributes health and beauty aids in the US and over 60

Countries world wide. Eric Domel is a foreigner, sent from France to work in the US with former President Nicole Arbour. Plaintiff assisted defendant Eric Domel and other employees sent over by Ales Group in securing their working visa in addition to green card applications. Plaintiff had always been a direct report to the President in the US office.

Plaintiff's position was hired as Customer Service Manager and after a few months promoted to Office Manager too. Later that year to become PhytoSpecific "Brand Manager," performing many functions as the dedicated person for the "ethnic hair care line" while training in all brands targeted to white, black, yellow, etc. persons. Plaintiff was the only person in the US market who handled and was licensed for my responsibilities. Plaintiff's performance or qualifications were never questioned or disputed.

Upon Plaintiff's arrival to the company, the company was inundated untrained personnel, reckless management and misinformation in

regards to the use and application of the PhytoSpecific Hair Relaxer. All suits had been resolved, accounts were reorganized, no longer a bleeding liability to the corporation. This was all documented by defendants.

This complaint was filed, accepted and stamped Aug 31, 2004. This complaint was later docketed as filed on October 19, 2004.

On 6/30/2005, an amended complaint was submitted answering all questions, comments concerns raised by defendants and the then assigned Judge Preska. The amended complaint re-included defendant Eric Domel along with Ales Group USA as originally handled to the Clerk on August 31, 2004. In addition a note was made that after further reading, I respectfully believe my ADEA claim initially raised with the EEOC with a right to sue letter... "that a charging party who alleges retaliation in violation of the ADA need not be qualified with a disability (*Krouse v American Steralizer*, 126 F. 3rd 494 (3rd Cir. 1977)). Similarly, a charging party who alleges retaliation for

protesting discrimination against persons in the protected group need not be in the protected age group in order to bring an ADEA claim (*Anderson v. Phillips Petroleum*, 722 F. Supp. 688, 67101472 (D. Kan. 1989)). In addition a charging party can challenge retaliation by a respondent even if the retaliation occurred after their employment.

My complaint on record against Ales Group USA and Eric Domel were as follows: *Claim 1: Unlawful Removal from Payroll; Claim 2: Unlawful failure to Hire; Claim 3: Replacement as Specific Brand Manager by Norma Lujan; Claim 4: Unlawful Termination of Employment; Claim 5: Fraud; Claim 6: Sexual Harassment; Claim 7: Retaliation for Exercising Protected Rights and Claim 8: Age Discrimination.*

I received assistance by Angela Dorn and Clarence Pollard in amending my complaint while I was seeking legal representation from them or someone who was willing to commit to my case. These two were denied addressing the Court either by appearance or letter brief to address their

assistance in or with me. Defendants counsel complained that "*Plaintiff was committing a fraud by representing herself.*"

Judges denied to address the issue (entry 2/24/06), provide transcripts (entry 2/8/06) that supports the issues raised, implied, and escalated out of hand, etc. including denying Plaintiff the opportunity to seek Counsel, petition the Court for Counsel. Transcript, "*A lawyer may choose not to represent you,*" page 518 comment from the Magistrate, and when the Magistrate had been informed that the defendants are being given an unfair advantage, the Magistrate responds, "*I hear you.*" Page 519. When the Magistrate is told that, "*What's going on right now is a cover up taking place*" he responds, he doesn't have time for that right now.

When defendants were asked by the Magistrate, (page 310), "*Let me get something straight: was the Plaintiff terminated for cause?*" Defendants responded, "*I will go into that at a later point in time. I rather not go into that now.*"

Defendants never did although repeatedly asked and then suddenly claimed "*for financial reasons*" but failed to provide any documentation, testimony or evidence supporting that claim. Nothing was entered into this record or provided to the Plaintiff. Plaintiff was denied access, equal access and equal protection to the Court. (Pages 455 to 519 submitted to further support)

At the beginning of discovery, the Magistrate barred anyone from joining Plaintiff's complaint. Plaintiff never heard this asked of the Court from defendants nor received any thing requesting this.

During discovery defendants misrepresented Medical and/or Mental Authorizations in an attempt to force Plaintiff to make an uninformed consent to violate Plaintiff. When brought to the Magistrates attention, the Magistrate indicated that the authorizations purpose was for that litigation alone, when Plaintiff indicated that on them,

> "*Purpose: At the Defendant's request in Wrongful Employment Termination civil suit otherwise recovery for pain and suffering*

> *maybe dismissed. This is for strict use and release for this claim – 04cv08239 ONLY. Patient is Plaintiff*

Refer to Magistrates Scheduling Order, Appendix 59a.

Plaintiff was sanctioned for making an informed consent. (pages 521 – 526 supports these acts). Magistrate's Summary Order had indicated these exact words. Plaintiff was unlawfully sanctioned for exercising her protected rights according to the Health Insurance Portability and Protection Act.

Plaintiff properly executed Subpoenas in a Civil Case for depositions to days (pages 485 - 510) defendants complained that Plaintiff should not be allowed depositions because, "*she cannot afford them.*" Suddenly the time booked by procedure and confirmed for Court room use became unavailable.

Plaintiff was permitted to take the deposition of Eric Domel at another location. All other depositions were denied, ignored. Defendants' and the Magistrate improperly dictated how Plaintiff

could present her case and what would be available for review to support her complaint as filed. This lack of information was further framed into a "*Memorandum & Order*" based on that fraud upon the Court without a "*Report & Recommendation*" to be provided.

Defendants did not file cross complaints in their answers against Plaintiff nor did Plaintiff receive any direct complaints indicating they were for or by the defendants to be addressed.

Defendants' deposition of Plaintiff had been substantially altered and when brought to the Magistrate's attention, the Magistrate and defendants counsel claimed that I did not request a copy beforehand. Plaintiff did not sign. The defendants had altered Plaintiff's mailing address from "mailing" to "reside" ... coincidently Plaintiff had received three (3) separate Affidavits with Proof of Service from "licensed" Process Servers in three (3) separate debt collection documents claiming to have served that address and indicated a "fake person" who they served when in fact it was

a one story Post Office building, these process servers had documents in relation to a Sony Computer, AT&T Universal Card and AT&T mobile phone accounts. These process servers failed to appear in the states civil court to address their fraudulent affidavits. This matter seemed separate but now I understand what defendant meant in his oral argument, "*for many independent reasons.*"

Defendants were attempting to frame Plaintiff for mail Fraud when in fact they knew what they were doing was a lie. Defendants counsel himself was committing mail fraud by (page 248) sending documents in a certified manner when in fact the actual document that the certified number

was attached to is being used for other purposes. Whoever may be on the receiving end believes Plaintiff received something attached to a presented (his) certified number when in fact Plaintiff received something else.

Defendants were changing documents that were mailed, the Internal Revenue Service ruling

that was decided in Plaintiff's favor was attempting to be over ruled to support their known questionable actions. (pages 198 – 240). The IRS determined that Plaintiff was in fact an employee during all the years 1998 through 2003. Defendants' counsel submitted an authorization request for Power of Attorney over Plaintiff's income taxes while misrepresenting his forms to Plaintiff and the Court record, when caught he claimed otherwise. IRS instructed there was no need for that man to be requesting that authorization. Transcripts were ordered and provided although Plaintiff was sanctioned for not relinquishing her protected rights and by making an informed consent.

Freedom of Information Request that were made were being stalled to no response. Records were becoming unavailable just as no attorney was "interested" in getting involved in my case unless I needed a defense attorney. *For what and why is that?*

The transcripts where Judge Crotty indicates to defendants counsel that his client was

responsible for his actions regardless, defendants counsel indicated "*she's not prosecuted her case*," have been denied to be released. Clarification was never made and transcript denied Plaintiff. Who is *she*? Plaintiff? Defendants refuse to identified exactly who is there client when asked in court.

Defendant also had indicated, "*This is opening my client up to additional liability*." What's this? Who's involved in this litigation?

Eventually Judge Crotty improperly dismissed Plaintiff's case and it was recorded incorrectly to the record.

I expected this case to be challenging because defendant, Eric Domel had indicated that he didn't care about the Courts and that's why he took out additional insurance to cover him. Plaintiff has this on digital audio tape and confirmed by defendants counsel as him (*when counsel believed it was the only copy attempts were made to erase & control that Sony computer*). A complaint had been raised with defendants' insurance company, Chubb

Insurance, prior to filing my complaint in US District Court.

An appeal as a right based on the merits was filed in the United States District Court on filed August 9, 2007 indicating, "Notice of Appeal for the decision(s) (describe it) Granting defendants Motion for Summary Judgment; Memorandum & Decision Order; Failure to receive Magistrate's Report and Recommendation; Issues of facts were never addressed; refusal to be heard; the docket record mistakes & errors in orders denied including timeliness with weekends & holidays included; reopening the case to address the facts; reconsideration request denied with prejudice "for reasons stated" but never entered into record or given to Plaintiff, and related entries to complaint filed entered on the 2nd & 3rd day of July 2007."

This Notice of Appeal was sent via United States Postal Service Express Mail, was stamped by the Clerk on August 13, 2007 for United States District Court and for the United States Court of Appeals on September 7, 2007. (in this Appendix C

and D). This Notice of Appeal was affected by a motion for reconsideration that had not yet been decided. The Judgment was decided on July 27, 2007 – Docket 047-3849cv enters as 7/27/2007 NOA: 8/13/2007. Submitted for review.

A money Order for $455 filing fee was purchased on 8/13/2007 USPS #0950727135 and paid "to ensure the efficient processing of your Notice of Appel". This money was not accepted by the Clerk until the USCA had issued an index number 07-3849 giving the appearance of a late filing of 09/07/07.

This Appeal (07-3849cv) was dismissed on 2/13/2008 as untimely filed though docketing issues were brought to the Courts attention and the Case Manager, Anna Steglich.

US District Judge refuse to release transcripts that support the contradictions raised.

This order further indicted, "*It is noted however, that this does not affect the appellant's pursuit of relief that may be available to him under Federal Rule of Civil Procedure 60.*"

An Motion for Reconsideration was submitted on 2/26/2008 an order denying motion for reconsideration was entered on 5/24/2008.

On July 1, 2008, a Motion for Relief Pursuant to Rule 60 was filed with US District Court via fax and USPS Express Mail after contacting the Judges Clerk, Marlon Ovalles for permission to fax more than 10 pages. After permission was granted, a hard copy was sent although Judges Rules (page 531) indicated to not follow up faxes with a hard copy. This Motion was docketed as filed on July 7, 2008. And later an Order entered claiming that it was filed more than one year late. Proof of receipts (mail and fax) contradict these docketed entries as filed but the record was never corrected.

A Notice of Appeal was filed using the new forms, 8/21/2008, this index is 08-4575cv.

Oral Argument was heard on 01/21/2010. At Oral Argument Plaintiff was requested by the Justices, Walker, Straub and Pooler, to *"... your time is up, you have certainly given us things to*

look for you may file ... with the Clerk of the Court pages, and of course copies to opposing counsel, I guess you should direct us to not just a FedEx receipt but one that is signed... Okay, we'll investigate this or do whatever is appropriate." Per Audio CD from Oral Argument.

After submitting irrefutable evidence, approximately 537 pages to support what I had been saying all along that there is a SHAM of a proceeding going on. There is fraud upon the court.

There's been an intentional and illegal redirection of the truth. From my experience, no one is bothering to seek the truth as it pertains to the matter brought before this Court. Defendants have been collaborating or colluding by fabricating evidence, stitched together by legitimate or illegitimate sources to redirect the merits of this case.

With all due respect my basic and fundamental rights have been violated that's visible

to the naked eye. The docket and documents speak for themselves.

I pray this Court will accept this petition and an oral argument to address any questions or concerns not addressed here and apply the applicable laws in addressing this complaint and reverse all the lower courts decisions as they were procured based on fraud (even the appearance of fraud) and for whatever relief deemed just and appropriate.

The defendants' judgment was procured based on fraud deceit, mistakes, errors and abuse.

Due to the numerous inconsistencies, errors, blocking Plaintiff equal access and protection this case has been improperly handled. A fraud has been conducted upon the Court as well as the Plaintiff by persons in positions of trust and authority.

Clearly the stamps are visible and document actual dates are available for review. The tone, behavior, and refusal to address the facts when

presented has caused this matter to escalate unnecessarily.

Defendants' counsel indicated at oral argument opening statement, "That due to many independent reasons, I ah we request that you affirm the decision from Judge Crotty, denying Plaintiff's Rule 60 Motion." Independent reasons have not been entered into this record, nor has these reasons been brought to the attention to the Plaintiff. Plaintiff repeatedly asked for the Justices and those in positions of trust or authority to address the inconsistencies witnessed and experienced. Review of evidence or hearings requested were denied. Repeatedly Plaintiff objected to the mishandling, the many distortions, misinformation that was assumed true, done or correct because defendants counsel said so, an Officer of the Court.

The lower courts mishandled Plaintiff's case by not docketing correctly, not addressing legitimate issues by Plaintiff when raised and by not granting

Plaintiff equal access and protections as provided by law.

Plaintiff's complaint (04CV8239) was timely filed 08/31/2004 not the entry date of 10/19/ 2004.

Plaintiff's Notice of Appeal (07-3849cv) was timely filed 08/09/2007 stamped, 8/13/2007 not the entry date of 9/05/2007. There was a motion pending that was not decided until 7/27/2007 and entered as Judgment.

Note docket entry 8/13/2007 (08CV8239) Notice of Appeal filed by Eric Domel. I.F.P. granted 10/18/2004. WHAT's THIS? Inquired, searched for hidden dockets. No record found.

Plaintiff's Motion for Relief Pursuant to Rule 60 was timely filed on 07/01/2008 (*within the 365 days of docket entries of 07/02/2007 and 07/02/2007*) not the entry date of 07/08/2008.

Plaintiff's "Record Due Back" per the request of the Justices ostensibly supports and is consistent with Plaintiff's issues imposed upon the court. The

Justices indicated that, "..*we'll investigate this or do whatever is appropriate,*" after verbally acknowledging the visible docketing errors that supported Plaintiff's claims.

Fraud Upon the Court – Grounds for relief from a final judgment, order or proceeding. On a motion and just terms, the court may relieve a party or its legal representative from a final judgment, order or proceeding for the following reasons:

(1) Mistake, inadvertence, surprise, or excusable neglect;

(2) Newly discovered evidence that with reasonable diligence could not have been discovered in time to move for a new trial under rule 59(b);

(3) Fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;

(4) The judgment is void;

(5) The judgment has been satisfied, released or discharged; or applying it prospectively is no longer equitable; or;

(6) Any other reasons that justifies relief.

Whenever any officer of the court commits fraud during a proceeding in the court, he/she is engaged in "fraud upon the court". In *Bulloch v. United States*, 763 F. 2d 1115, 1121 (10th Cir. 1985).

The Judges' abused their discretion by not acting impartial or properly according to the law, federal rule of civil procedure and the manual and guidelines provided by the Court when they were imposed upon repeatedly.

When the defendants' perpetrated a fraud upon the court all actions have come into question. This case has been so severely prejudiced that this matter requires true, careful and committed examination of the documents – not the "quick view" of the docket, the record in print. These errors have affected my rights to a substantial degree, with reasonable possibility of prejudice, *United States v Harris*, 9 F 3rd 493, 499 (6th Cir. 1993).

"'[F] raud upon the court' as distinguished from fraud on an adverse party is limited to fraud which

seriously affects the integrity of the normal process of adjudication." Id. At 559 (citing *Kupferman v. Consol, Research & Mfg. Corp.*, 459 F.2d 1072, 1078 (2d Cir. 1972)). Fraud upon the court should embrace "only the species of fraud which does or attempts to defile the court itself, or is fraud perpetrated by officers of the court so that judicial machinery cannot perform in the usual manner its impartial task of adjudging cases."

This case appears incurable in the lower courts as the attached documents supports and the scanned record into the record from 2/20/2010, opinions have been formed, refusal to be heard has been denied, refusal for legal representation was denied. If the truth was ever sought when my complaint was filed, Plaintiff would not have been denied legal representation when hearings had been requested to allow the assistance I had received in

amending my complaint or to become legal representative... after visiting many lawyers who took an interest in my case (evidence by saying so, copying hundreds of pages at consultation to

eventually never calling back or avoided communication with me). Magistrate indicated, so at the transcript supported. It felt like black balled, retaliated against for exercising my protected rights, benefits and protections according to the laws and the US Constitution.

As lead counsel, Mr. Parker is responsible for all documents signed, filed and received. He may have plausible deniability, as he claimed it wasn't him who had changed the deposition he took of Plaintiff in his office. When contacted the "transcribing company" they referred me back to my attorney. Repeatedly Mr. Parker was mistaken to be my legal representation when in fact he had no business or right to represent me in any matters without my knowledge or consent. A conflict of interest as well as many other concerns were raised and ignored.

The IRS indicated that there was no need to give defendants counsel Power of Attorney over my taxes as he had slipped in on his "authorizations" requested from Plaintiff. When brought to the

Magistrate's attention, Plaintiff was sanctioned for not relinquishing her protected rights. Eventually defendants were able to procure a Form 886A from an "aider" at the IRS but this was never submitted to me, I learned of this document buried in defendants request for Summary Judgment.

The motion for relief pursuant to Rule 60 was made within a reasonable time (1), (2) and (3) no more than a year after the entry of the judgment or order or the date of the proceeding.

My appeal as a right has been denied as a result of these errors and subsequently all related matters thereafter.

When my second appeal was filed, I had a new case manager but was suddenly switched back to the previous person who mishandled my case and documents submitted. Though this person did ask, "*where do you live*?" Not that the court had any return documents from my mailing address.

Plaintiff's complaint should not have been dismissed unless it appears to a certainty that

Plaintiff would be entitle to no relief under any state of facts that could be proved in support of claims. *Gomez v. Toledo*, (1980, US) 64 L Ed 2d 572, 100 S Ct 1920. If there was genuine belief that Plaintiff's complaint with certainty was not entitled to no relief, Judge Lorretta Preska would have done so promptly. She indicated that it was "moot" to the defendants in their initial Motion for Summary Judgment on April 25, 2005.

For the reasons brought forth in this document and the submitted documents into record entry 2/20/2010 scanned into the USCA 08-4575cv. I pray this Court will grant this petition to stop a miscarriage of justice. Petitioner's Constitutional rights have been violated.

Gonzales vs Ales Group filed 7/6/2006 was immediately sent straight to arbitration.

REASONS FOR GRANTING THE WRIT

The Second Circuit's decisions are so far departed from the accepted and usual course of judicial proceedings calling for an exercise of this Court's supervisory power.

The decisions were made in a way that directly conflicts with basic and fundamental constitutional rights and protections. Essentially the decisions of the Second Circuit were made based on a visible mishandling of this case, clearly erroneous giving the appearance that a judiciary proceeding occurred when it did not. Constitutional right to equal access was denied, contrary to law.

All correspondence written into record, legal references (Lexis, etc.) mirrors the appearance that a judicial proceeding took place in accordance to the Federal Rules of Civil Procedure and the laws when in fact it did not. It's a tragedy when all persons do not have equal access to the judicial process, those with financial means should not be the only one allowed access and to have their rights protected.

Defendants do not deny the actions committed by them, they claimed they were time barred when they were not. If plaintiff had been allowed equal access, any issues not addressed would have been supported by legitimate witnesses.

As a result of having to exercise my protected rights, I was retaliated by persons in positions of trust and authority to the extent that the abuse of discretion has led to the appearance of silence by those who verbally said they would investigate and do what was necessary to address the issues raised.

Contrary to defendants claims, there has not been any attempts to "rearguing facts decided below" at all times, I, the petitioner-plaintiff-appellant has sought to have the facts lawfully addressed pursuant to the applicable laws, statutes, Acts, the US Constitution, Federal Rules of Evidence and Federal Rules of Civil Procedure. There are assumptions being made based on the record riddled with known misstatements and misrepresentations discouraging the facts from being lawfully addressed.

"All truths are easy to understand once they are discovered; the point is to discover them."

- Galileo Galilei

The actions that have occurred in the Second Circuit give the appearance of a fraud upon the court, the record has been construed. If a fraud upon the court has occurred, all actions during that proceeding is questionable. The substance of the argument, complaint, questions and objections have always been clear to avoid confusion and supported with evidence when allowed to present it.

The lower courts consistently mishandled docketing which gives the appearance documents were untimely filed are clearly erroneous. Upon review of the actual documents, the received stamps contradict the dates docketed as acknowledged by the Justices at Oral Argument on January 21, 2010 per the Audio CD (Appendix 27a). A reasoned determination based on the facts was mot made, simply the appearance that a pro se litigant had equal access when she did not.

CONCLUSION

For the reasons set forth above, the petition for certiorari should be granted.

Respectfully submitted,

DEANNA MORRIS
432 East 14th Street
PO Box #616
New York, NY 10009
(212) 388-2712

APPENDIX

No. 08-4575cv

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Deanna Morris, Plaintiff-Appelle,

v.

Ales Group USA and Eric Domel,
Defendants-Appellants.

Appeals from the United States District Court for the Southern District of New York, 2nd Circuit

No. 04-cv-8239 Paul A. Crotty, Trial Judge

Trial Judge originally signed to case Lorretta A. Preska

Theodore H. Katz, Magistrate Judge

ARGUED JANUARY 21, 2010 – DECIDED MAY 24, 2010 (Reconsideration denied August 21, 2010)

Before, JOHN WALKER, Jr., CHESTER J. STRAUB and ROSEMARY S. POOLER, Circuit Judges.

Appeal from the United States District Court for the Southern District of New York (Crotty, Judge). UPON DUE CONSIDERATION, IT IS HEREBY ORDERED that the appeal is DISMISSED.

Plaintiff Deanna Morris, pro se, appeals a post-judgment order denying her motion for reconsideration of the decision below granting summary judgment for defendants. The present appeal represents plaintiff's second attempt to appeal the judgment dismissing her complaint. Previously, a panel of this Court dismissed plaintiff's first appeal as untimely. *Morris v. Alcs Group USA, Inc.* No 07-3849-cv (2d Cir. Feb 28, 2008). (Judgment was entered below on July 3, 2007, but Plaintiff did not file a notice of Appeal until August 13, 2007. See Fed. R. App. P 4(a)(1).) After her first appeal was dismissed, plaintiff moved for reconsideration of the denial. Plaintiff now seeks to appeal the denial of her first post-appeal motion for reconsideration.[1] We assume the parties' familiarity with the case.

"[T]he timely filing of a notice of appeal in a civil case is a jurisdictional requirement." *Bowles v. Russell*, 551 U.S. 205, 214 (2007). In a civil case, an appellant must generally file a notice of appeal within 30 days of the entry of the order being appealed. Fed. R. App. P 4(a)(1). Here, the order plaintiff seeks to appeal – the district court's denial of plaintiff's first motion for reconsideration – was entered on July 22, 2008. Plaintiff's notice of appeal was filed on August 22, 2008, one day late. See Fed. R. App. P 4(a)(1)(A). Further, plaintiff's second Rule

60 motion was not timely filed for purposes of tolling time to file a notice of appeal. See *Camacho v. City of Yonkers*, 236 F. 3d 112, 115 (2d Cir. 2000); Fruit of the Loom, Inc. v. American Mktg. Enters., Inc., 192 F.3d 73, 75 (2d Cir. 1999).

During oral argument, plaintiff denied that her initial appeal was untimely, claiming that the filing dates contained on the district court's docket sheet are inaccurate due to the district court's mishandling of her submissions. On our invitation, plaintiff subsequently submitted over 500 pages of records ostensibly showing that the filing dates on the docket sheet were erroneous. We have carefully reviewed plaintiff's submissions, and find nothing to substantiate her allegations.

Although a district court may, in certain circumstances, extend the time for filing a notice of appeal, a court of appeals may not. See 28 U.S.C. § 2107(c); Fed. R. App. P. 26(b)(1). Accordingly, because the district court has denied plaintiff's motion for an extension of time to appeal, this appeal must be, and therefore is DISMISSED.

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk

[1] Plaintiff's second motion for reconsideration is not within the ambit of this appeal, since the notice of appeal indicates that the second motion was still pending at the time of the appeal, thus negating any inference that plaintiff intended to appeal that order.

No. 07-3849cv

UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

Deanna Morris, Plaintiff-Appelle,

v.

Ales Group USA and Eric Domel,
Defendants-Appellants.

AMENDED ORDER

Present:

Honorable Robert D. Sack,

Honorable Robert A. Katzman,

Honorable Reena Raggi,

Circuit Judges. Filed February 26, 2008

Appellees moves to dismiss as untimely the pro se, Appellant's appeal from the district court's judgment dismissing her complaint and order

denying her motion for reconsideration. Upon due consideration. Upon due consideration, it is ORDERED that the motion is GRANTED because the notice of appeal was not timely filed as to the judgment. See Fed. R. App. P. 4(a)(1) and (4). It is noted, however, that this not affect the appellant's pursuit of relief that may be available to her under Federal Rules of Civil Procedure 60. Before Hon. RDS. RAK. RR. Endorsed by FP [Entry date Feb 26 2008] [AS]

No. 04 CV 08239

UNITED STATES DISTRICT COURT
FOR THE SECOND CIRCUIT

Deanna Morris, Plaintiff,

v.

Ales Group USA and Eric Domel,
Defendant.

MEMORANDUM & ORDER

HONORABLE PAUL A. CROTTY, United States District Judge

Entered: July 2, 2007

Defendants are entitled to summary judgment on all of Plaintiff's discrimination, retaliation, sexual harassment and fraud claims as a matter of law, as well as on the grounds of mootnes. Accordingly, the Defendants' motion is GRANTED and Plaintiff's claims are dismissed with prejudice. The Clerk of the Court is ordered to close out this case. So Ordered. (Signed by Judge Paul A. Crotty on 6/28/07) (Entered: 07/02/2007) Clerk Entered: 7/03/2007.

Plaintiffs Notice of Appeal Dated 7/6/2007. Motions were pending. Motion for Reconsideration Submitted on July 17, 2007 (flied July 18, 2007).

No. 04 CV 08239

UNITED STATES DISTRICT COURT
FOR THE SECOND CIRCUIT

Deanna Morris, Plaintiff,

v.

Ales Group USA and Eric Domel,
Defendant.

ORDER

HONORABLE PAUL A. CROTTY, United States District Judge

Entered: July 27, 2007 (as docketed entry 94)

ORDER... Pro se plaintiff Deanna Morris filed this Motion for Reconsideration of the Courts June 28, 2007 Order granting Defendants motion for summary judgment and dismissing the action. Plaintiff's motion, however is untimely. A party must file a Motion for Reconsideration of an order resulting in a judgment within (10) business of entry of judgment. Local Civil Rule 6.3 Plaintiff's motion, filed July 18, 2007, was not filed within ten days of the June 29, 2007 entry of Judgment. See Fulani v. Brady, et al. 149 F.R.D. 501, 503 (S.D.N.Y. 1993), after, 35 F. 3d 49 (2d Cir. 1994). Even if the motion were timely, it would nonetheless be denied. Plaintiff does not suggest, let alone demonstrate, that the Court overlooked controlling decisions or factual matters that were put before it on the underlying motion, as required by Local Civil Rule 6.3. See id. Plaintiff merely rehashes the same objections to Magistrate Judge Katzs discovery

rulings, which this Court has twice reviewed, and twice upheld. (See Mar. 26, 2006 Order & Mar. 30, 2007 Order) Plaintiff's Motion for Reconsideration is DENIED (Signed by Judge Paul A. Crotty on 07/27/2007) (Entered on 07/27/2007)

Appeal Remark from Docket "as to Notice of Appeal filed by Eric Domel" questioned.

Further note docket entries entered after the fact and out of order.

No. 04 CV 08239

UNITED STATES DISTRICT COURT
FOR THE SECOND CIRCUIT

Deanna Morris, Plaintiff,

v.

Ales Group USA and Eric Domel,
Defendant.

NOTICE OF APPEAL

filed August 9, 2007 by Plaintiff,

Notice is hereby given that Deanna Morris hereby appeals to the United States Court of Appeals for

the Second Circuit Decision(s) Granting defendants Motion for Summary Judgment; Memorandum & Decision Order; failure to receive Magistrate's Report & Recommendation; Issues of fact were never addressed; refusal to be heard; The docket record, mistakes & errors in orders denied including timeliness with weekends & holidays included; reopening the case to address the facts; reconsideration request denied with prejudice "for reasons stated" but never entered into record or given to Plaintiff, and related entries to complaint filed, entered in this action on the 2nd and 3rd day of July, 2007.

No. 04 CV 08239

UNITED STATES DISTRICT COURT
FOR THE SECOND CIRCUIT

Deanna Morris, Plaintiff,

v.

Ales Group USA and Eric Domel,
Defendant.

ENDORSED LETTER

(docket entry 96 08/22/2007) addressed to Judge Crotty from Deanna Morris dated 08/07/2007 re: Reconsideration. ENDORSEMENT: Treating this as a motion for reconsideration, it is again DENIED. The Court adheres to its order of July 27, 2007. Plaintiff does not suggest that the Court overlooked controlling law or factual matters not previously put before it. So Ordered. (Signed by Judge Paul A Crotty on 08/21/2007) (Entered 08/22/2007).

No. 04 CV 08239

UNITED STATES DISTRICT COURT FOR THE SECOND CIRCUIT

Deanna Morris, Plaintiff,

v.

Ales Group USA and Eric Domel,
Defendant.

PLAINTIFFS MOTION for RELIEF PURSUANTto RULE 60

Filed July 1, 2008 26 pages, permission to fax granted per Communications with Chambers notice, a hard copy was completed through United States Postal Service Overnight Express Mail.

"Attached please fid Motion for Relief Pursuant to Rule 60 – Order entered July 2, 2007. The attached originals have been placed in the mail after first faxing to defendants and mailed. Attached Noted from United States Court of Appeals, 2nd Circuit and Initial Notice of Appeal..."

No. 04 CV 08239

UNITED STATES DISTRICT COURT
FOR THE SECOND CIRCUIT

Deanna Morris, Plaintiff,

v.

Ales Group USA and Eric Domel,
Defendant.

NOTICE of MOTION

RECONSIDERATION of RELIEF

UNDER RULE 60

"... Seeking relief in the above entitle action pursuant to Rule 60, attached decision from USCA and supporting documentation this motion was submitted timely pursuant to Rule 60 within one year of entry date, according to docket entered #92

on 7/2/2007 & #93 on 7/3/2007. Entry # 94 on 7/27 and entry #96 on 8/21/2007. Original motion of 7/1/2007 was faxed to chambers per attachment to defendants timely, with permission to fax more than 10 pages received prior. Originals were mailed 7/1/2008 although Judge Crotty's rules indicate, not necessary to mail originals if faxed to chambers. Proof of receipts available for all on 7/1/2008. Delay from Court of Appeals entry is as a result of limited resources, access, illness and issues associated as a result of exercising my protected rights in addition to waiting for Freedom of Information Act (FOIA) request made to related agencies whose documents are supportive to complaint since discovery was denied (these agencies include IRS & Immigration). This motion is consistent to complaint and all docket entries in and interi to the US Supreme Court #07-11554.

Signed by Plaintiff Deanna Morris on August 4, 2008.

No. 04 CV 08239

UNITED STATES DISTRICT COURT
FOR THE SECOND CIRCUIT

Deanna Morris, Plaintiff,

v.

Ales Group USA and Eric Domel,
Defendant.

MEMO ENDORSED ON MOTION FOR
RECONSIDERATION OF RELIEF UNDER RULE 60

HONORABLE PAUL A. CROTTY, United States District Judge

Entered: August 20, 2008

The Court has directed that this pro se application be accepted for filing. As accepted, the motion is denied. There is no basis for reconsideration. So Ordered. Signed by Judge Paul A. Crotty on 8/19/2008.

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF NEW YORK

04 Civ. 08239

Deanna Morris, Plaintiff

- against -

Ales Group USA, Inc., and Eric Domel, Defendants

SCHEDULING ORDER

THEDORE H. KATZ, UNITED STATES MAGISTRATE JUDGE

This case having been referred to this Court for general pretrial supervision, and the parties having participated in a pretrial conference; it is hereby ORDERED:

1. By October 17, 2005, Defendants shall send a new set of tax records, medical records, and mental health records releases to Plaintiff.
2. By October 21, 2005, Plaintiff shall sign and date the releases and return them to Defendants. By October 21, 2005, Plaintiff shall also provide photocopies of her passport and driver's license to Defendants for the sole purpose of obtaining Plaintiff's tax records for this litigation. The identification and records

for this litigation. Finally, by October 21, 2005, Plaintiff shall provide to Defendants a copy of the audiotape she made involving Defendant Domel.

3. By October 21, 2005, Defendants shall submit a letter to the Court detailing outstanding disputes related to their discovery requests. By October 28, 2005, any responses by Plaintiff to the above-mentioned letter shall be submitted to the Court.
4. (5)By October 21, 2005 Plaintiff shall submit redrafted, focused discovery request to Defendants.
5. (6)There shall be no depositions until document discovery is completed. Plaintiff shall inform Defendant of any proposed deponents whom she fears will be unavailable for deposition, if delayed. Defendant shall confirm that such deponents will be available for depositions.

SO ORDERED,

THEDORE H. KATZ

UNITED STEST MAGISTRATE JUDGE

Dated: October 14, 2005

New York, New York

Morris v. Ales Group USA, Inc.

04 Civ. 08239 (LAP)

ENDORSEMENT

LORRETTA A. PRESKA,

UNITED STATES DISTRICT JUDGE

(Defendant moves 1) to dismiss plaintiff's ADEA claim on the ground that she had reached the age of 40, and, thus, was not in the protected class, at the time of the events complained of, and 2) for a more definitive statement of plaintiff's Title VII claims, including the dates of the acts complained of.

With respect to plaintiff's lists her birthdate as July 7, 1964 in paragraph 7 of the complaint. Paragraph 10 recites that she filed with the EEOC on May 25, 2004, and paragraph 12 notes that she received a right-to-sue letter on June 9, 2004 – both dates prior to her for fortieth birthday. The actual right-to-sue letter and its envelope attached to the complaint bear consistent dates. Accordingly, it is beyond peradventure that plaintiff was not 40 and thus not within the protection of the ADEA at the time of the

events that she complained of in her EEOC filing and that form the basis of this action. Plaintiff's ADEA claim is dismissed.

With respect to defendant's motion for a more definite statement, including the dates of the acts complained of, plaintiff noted at page five of complaint that "[t]he complaint will be amended with important facts ...." Accordingly, plaintiff is granted permission to amend her complaint within 30 days of the date this order is docketed. Plaintiff is granted permission to amend her complaint within 30 days of the date this order is docketed. Plaintiff may not amend the dismissed ADEA claim. Defendant's motion for a more definite statement is denied as moot.

April 25, 2005

SO ORDERED

Lorretta A. Preska

Mailed in envelope post marked May 02, 2005
(submitted into record and attached)

Department of Treasury

Internal Revenue Service

SB/SE Area 1, Compliance

Vermont Territory, SS-8 Unit

Date: November 20, 2003

Case #31679

Letter from the IRS to Deanna Morris

Re: Form SS-8

Dear Ms. Morris:

"This is to acknowledge receipt of your Form SS-8, the request for a determination of employment status for Federal employment tax purposes...."

In response to Deanna Morris' submission of the "*IRS Form SS-8 Determination of Worker Status for Purposes of Federal Employment Taxes and Income Witholding*," received on October 07, 2003 along with approximately 200 pages of supportive documentation for review, completing a questionnaire with details in relation to Part 1: Behavioral Control; Part 2: Financial Control; Part 3: Relationship of the Worker and Firm; Part 4: For Service Providers or Salespersons, and Part 5: Declaration.

...

Date: April 13, 2004

Case #31679

Dear Ms. Morris:

"This is an update regarding your request for a determination, for Federal employment tax purposes concerning the work relationship between you and Ales Group USA, Inc., in tax_years: 1998, 1999, 2000, 2001, 2002, and 2003...."

Sincerely,

Sharon Tetrault

Compliance Support Clerk

...

Date: June 14, 2004

Case #31679

Dear Ms. Morris:

"This is to inform you that your request for a determination of employment status, for Federal employment tax purposes, has been assigned to the technician whose name appears in the "Person to Contact" box above.

We also requested information from the payer about your work relationship, but have not yet received a response. It is possible the technician may wish to contact you for further clarification of the issues when she handles your case.

We apologize for any delay in responding to your inquiry. Please be assured that every effort is being made to process your request as quickly as possible. If you have any questions or if you address and/or number has changed since your last contact with your office, please call the technician shown above and have your case number available. Your case number is 31679.

Sincerely,

Gail Lontine

Employment Tax Manager

...

Date: July 16, 2004

Case #31679

Dear Ms. Morris:

This is in reply to a request for a determination as to your Federal employment tax status with respect to the services you performed for Ales Group USA, Inc.. The Territory Manager may choose to issue an

information in lieu of a determination letter to provide information to the tax payer regarding well-established principles of tax law. You were classified as an employee. The miscellaneous income paid by your employer is considered wages for Federal tax purposes.

Accordingly, you should refer to the enclosed information guide, Notice 989, "Commonly Asked Questions When IRS Determines Your Worker Status is Employee," for applicable filing requirements and instructions regarding your income tax and Federal Insurance Contributions Act (FICA) tax obligations. You and the employer are jointly liable for your share of FICA taxes according to the Internal Revenue Code sections 3101 and 3102, although the intent is that the employer will collect it from you and remit it to the Government. Regardless of whether it is the employer or the Government who collects it from you, you are ultimately liable for the tax imposed by section 3101, and income tax.

As authorized by Section 5.09 of Revenue Procedure 2004-1, Internal Revenue Bulletin 2004-1, we have enclosed a copy of the information letter issued to the firm concerning your status. You should file your tax returns to reflect this decision. Attach copies of this letter, the information letter, and Form 4137 to your completed Forms 1040, claiming all of the additional income as wages, for the years

2002 and 2003, and forward to the IRS Campus where you normally file your returns. You do NOT need to wait for corrected pay documents from the firm in order to file your returns.

We forwarded Form 4598, "Form W-2 or 1099 Not Received or Incorrect." To our Customer Service Division on your behalf because you indicated the amount shown on your pay document was in error. You should be hearing from them within a week or two with assistance on how to file your tax return for the year 2001.

Sincerely,

Marybeth Torosian 03-00469

Employment Tax Technician

...

Date: August 19, 2004

Case #31679

Dear Ms. Morris:

This is to inform you that the above-named payer requested we open the request for a determination of your employment tax status while performing services for the payer in 1998-2003.

We have reopened the case and assigned it to the technician "Person to Contact" box above.

Information you previously submitted remains in the case file; however, it is possible the technician may wish to contact you for further information or clarification.

If you have any questions, please call the technician shown above and have your case number available. Your case number is 36323.

Sincerely,

Gail Lontine

Employment Tax Manager

...

Date: August 24, 2004

Case #31679

Dear Ms. Morris:

The reconsideration of case 31679 in which you were found to be an employee has been completed. The original finding was upheld, and you are still found to have been an employee.

Your letter of August 09, 2004 stated that your tax returns were being filed that week with copies being sent for this case. We did not receive those copies, nor did we have any evidence that your originals have been received.

If you have any questions or concerns please feel free to call me.

Sincerely,

Marybeth Torosian 03-00469

Employment Tax Technician

CASE INFORMATION

Docket Number	07-3849
Short Title	Morris v. Ales Group USA, Inc.
Case Type	cv
Docket Date	09/07/2007
Calendar Status	SUBMTD
Nature of suit	442
Lower Case Number	04-cv-8239
Case ID	33087
Lower Judge	Hon. Paul A.Crotty Hon. Theodore H.Katz

CASE DETAIL

Docket Sheet

Official Caption

Party Information

Name	Party Type	Attorney Name
Morris Deanna	Appellant	
Ales Group USA, Inc.	Appellee	Glen Parker
Domel Eric	Appellee	Glen Parker

Site Information

Name	Firm Name	Address

Deanna Morris		432 E 14th Street, P.O. Box 616, New York, NY 10009 348
Glen Parker	Hoey, King, Toker, & Epstein	55 Water St., New York, NY 10041

Deadlines Information

Docketed	Description	Due date	Status

History Information

Date Filed	Action	Scanned doc
9/7/2007	Copy of notice of appeal and district court docket entries on behalf of APPELLANT Deanna Morris, filed. [Entry date Sep 11 2007] [AS]	
9/7/2007	Copy of district court order RECEIVED. dated 7/27/07 [Entry date Sep 11 2007] [AS]	
9/7/2007	Copy of district court order RECEIVED. dated 6/29/07 [Entry date Sep 11 2007] [AS]	
9/7/2007	Record on appeal filed. (Original papers of district court.) Volume(s) 4 [Entry date Sep 11 2007] [AS]	
9/13/2007	Record on appeal received in records room from team.4 vol [Entry date Sep 13 2007] [NS]	
9/13/2007	Instructional Forms sent to Pro Se litigant [Entry date Sep 13 2007] [AS]	
9/25/2007	Notice of appeal acknowledgment letter from Glen Parker received. [Entry date Sep 26 2007] [AS]	
9/25/2007	Letter received dated 9/20/07 from Glen Parker advising the court of the enclosed acknowledgement letter. [Entry date Sep 26 2007] [AS]	
9/28/2007	Appellee Ales Group USA, Inc., Appellee Eric Domel motion dismiss the appeal filed with proof of service. [Entry date Oct 1 2007] [AS]	

10/3/2007	Notice of appeal acknowledgment letter from Deanna Morris received. [Entry date Oct 9 2007] [AS]	
10/3/2007	APPELLANT Deanna Morris, motion for extension of time to file brief, received. [Entry date Oct 9 2007] [AS]	
10/3/2007	Notice of appearance form on behalf of Deanna Morris , filed. (Orig in acco, copy to Calendar and Admissions Dept.). [Entry date Oct 9 2007] [AS]	
11/6/2007	Certified copy of the District Court docket entries FILED. [Entry date Nov 7 2007] [AS]	
11/6/2007	Letter received dated 10/26/07 from Appellant Deanna Morris requesting th defendants provide appellant with items sent to the District Court [Entry date Nov 27 2007] [AS]	
2/5/2008	Appellant Deanna Morris motion Time to respond to defendants motion to dismis filed with proof of service. [Entry date Feb 6 2008] [AS]	
2/13/2008	Order filed stating Appellees move to dismiss as untimely the pro se, Appellants appeal from the district court's judgment dismissing her complaint and order denying for reconsideration. Upon due consideration, it is hereby ORDERED that the motion is DISMISSED because the notice of appeal was not timely filed as the judgment. See Fed R. App. P. 4(a) (1) and (4). It is noted , however, that this does not affect the appellant's pursuit of relief that may be availlable to him under Federal Rule of Civil Procedure 60. Before Hon. RDS. RAK. RR. Endorsed by FP [Entry date Feb 13 2008] [AS]	
2/13/2008	Notice to parties regarding court order dated 2/13/08 [Entry date Feb 13 2008] [AS]	
2/13/2008	Order FILED DISMISSING motion dismiss the appeal by Appellee Ales Group USA, Inc., Appellee Eric Domel, endorsed on motion dated 2/5/2008. see court order dated 2/13/08 [Entry date Feb 13 2008] [AS]	
2/22/2008	Letter received dated 2/20/08 from Mr. Parker writing to bring to the Court's attentrion a possible mistake in the second sentence of the enclosed Court's order dartef February 13, 2008 [Entry date Feb 26 2008] [AS]	

2/25/2008	Appellant Deanna Morris opposition to motion dismiss the appeal filed with proof of service. [Entry date Feb 26 2008] [AS]	
2/26/2008	Order filed stating Appellees moves to dismiss as untimely the pro se, Appellant's appeal from the district court's judgment dismissing her complaint and order denying her motion for reconsideration. Upon due consideration. Upon due consideration, it is ORDERED that the motion is GRANTED because the notice of appeal was not timely filed as to the judgment. See Fed. R. App. P. 4(a)(1) and (4). It is noted, however, that this not affect the appellant's pursuit of relief that may be available to her under Federal Rules of Civil Procedure 60. Before Hon. RDS. RAK. RR. Endorsed by FP [Entry date Feb 26 2008] [AS]	
2/26/2008	Notice to parties regarding court order dated 2/26/08 [Entry date Feb 26 2008] [AS]	
2/26/2008	This appeal is disposed by the order: 2/26/08 [Entry date Feb 26 2008] [AS]	
3/14/2008	Appellant Deanna Morris motion reveiw of the facts filed with proof of service. [Entry date Mar 17 2008] [AS]	
3/19/2008	Appellee's Declaration in Opposition to Appellant's Motion for Reconsideration, filed with proof of service. [Entry date Mar 19 2008] [JM]	
3/24/2008	Order FILED DENYING motion allow by Appellant Deanna Morris, endorsed on motion dated 3/14/2008.IT IS HEREBY ORDERED that Appellant's motion for "review of the facts " (construed as a motion to reconsider the order dated 2/26/08) is DENIED Before Hon. RDS. RAK. RR. Endorsed By JP Motions Staff Attorney [Entry date Mar 24 2008] [AS]	
3/25/2008	Certified copy of order dated 2/26/08 disposing of the appeal issued to district court. [Mandate] [Entry date Mar 25 2008] [AS]	
3/25/2008	Notice to parties regarding mandate issued. [Entry date Mar 25 2008] [AS]	
4/9/2008	Mandate receipt returned from the district court. [Entry date Apr 9 2008] [NS]	

6/6/2008	Record on appeal RETURNED to lower court. (4 vols.) 500 pearl st. [Entry date Jun 6 2008] [FN]	
6/27/2008	Notice of filing petition for APPELLANT Deanna Morris, dated 6/24/08 filed. Supreme Court #: the Sup. Ct. docket #07-11554. [Entry date Jun 30 2008] [AS]	
9/22/2008	APPELLANT Deanna Morris, motion Relief pursuant to Rule 60,received. [Entry date Sep 22 2008] [AS]	
9/22/2008	Letter sent to APPELLANT Deanna Morris, : Advising appellant that 60 B motions are filed with the District Court not the court of Appeals. [Entry date Sep 22 2008] [AS]	
10/20/2008	Writ of Certiorari DENIED [Entry date Oct 27 2008] [AS]	
12/18/2008	Writ of Certiorari DENIED [Entry date Dec 24 2008] [AS]	

Morris v. Ales Group USA, Inc.
04 Civ. 8239 (LAP)

ENDORSEMENT

Defendant moves 1) to dismiss plaintiff's ADEA claim on the ground that she had not reached the age of 40, and, thus, was not in the protected class, at the time of the events complained of, and 2) for a more definitive statement of plaintiff's Title VII claims, including the dates of the acts complained of.

With respect to plaintiff's age claim, plaintiff lists her birth date as July 7, 1964 in paragraph 7 of the complaint. Paragraph 10 recites that she filed with the EEOC on May 25, 2004, and paragraph 12 notes that she received a right-to-sue letter on June 9, 2004--both dates prior to her fortieth birthday. The actual right-to-sue letter and its envelope attached to the complaint bear consistent dates. Accordingly, it is beyond peradventure that plaintiff was not 40 and thus not within the protection of the ADEA at the time of the events that she complained of in her EEOC filing and that form the basis of this action. Plaintiff's ADEA claim is dismissed.

With respect to defendant's motion for a more definite statement, including the dates of the acts complained of, plaintiff noted at page five of the complaint that "[t]he complaint will be amended with important facts . . . ." Accordingly, plaintiff is granted permission to amend her complaint within 30 days of the date this order is docketed. Plaintiff may not amend the dismissed ADEA claim. Defendant's motion for a more definite statement is denied as moot.

April 25, 2005 SO ORDERED

TATES DISTRICT COURT
RN DISTRICT OF NEW YORK
CHAMBERS OF
LORETTA A. PRESKA
ED STATES DISTRICT JUDGE
500 PEARL STREET
IEW YORK, NY 10007

U.S. OFFICIAL MAIL
PENALTY FOR
PRIVATE USE $300

FIRST CLASS

UNITED STATES POSTAL SERVICE
02 1A
0004388252
$ 00.37⁰
MAY 02 2005
MAILED FROM ZIPCODE 10007

Ms. Deanna Morris
432 East 14th Street
P.O. Box 616
New York, NY 10009

DEANNA MORRIS

Per. call okay approval to fax these pages, unable to deliver by hand, Originals mailed today.

FACSIMILE TRANSMITTAL SHEET

TO:	FROM:
Marlon Ovalles, Courtroom Deputy	Deanna Morris
COMPANY:	DATE:
US District Court, Southern District	7/1/2008
FAX NUMBER:	TOTAL NO. OF PAGES INCLUDING COVER:
(212) 805-6304	26
PHONE NUMBER:	SENDER'S REFERENCE NUMBER:
(212) 805-6312	04 CV 08239
RE:	YOUR REFERENCE NUMBER:
Relief Pursuant to Rule 60	Fax Glen Parker and then to Judge Crotty

☐ URGENT X FOR REVIEW ☐ PLEASE COMMENT ☐ PLEASE REPLY ☐ PLEASE RECYCLE

NOTES/COMMENTS:

Attached Please find Motion for Relief Pursuant to Rule 60 - Order entered July 2, 2007. The attached originals have been placed in mail after first faxing to defendants and mailed. Attached Noted from United States Court of Appeals, 2nd Circuit and initial Notice of Appeal.

Rule 60. Relief From a Judgment or Order

(a) Corrections Based on Clerical Mistakes; Oversights and Omissions. The court may correct a clerical mistake arising from oversight or omissions whenever one is found in a judgment, order, or other part of the record. The court may do so on motion or on its own, with or without notice. But after an appeal has been docketed in the appellant court and while it is pending, such a mistake may be considered only with the appellate court's leave.

(b) Grounds for Relief From a Final Judgment, Order or Proceeding. On a motion and just terms, the court may relieve a party or its legal representative from a final judgment, order, or proceeding for the following reasons:

(1) mistake, inadvertence, surprise, or excusable neglect;
(2) newly discovered evidence that, with reasonable diligence could not have been discovered in time to move for a new trial under rule 59(b);
(3) fraud (whether previously called intrinsic or extrinsic), misrepresentation, or misconduct by an opposing party;
(4) the judgment is void;
(5) the judgment has been satisfied, released or discharged; it is based on an earlier judgment that has been reversed or vacated; or applying it prospectively is no longer equitable; or,
(6) any other reason that justifies relief.

A motion under Rule 60(b) must be made within a reasonable time – and for reasons (1), (2), and (3) no more than a year after the entry of the judgment or order or the date of the proceeding.

432 E 14TH ST, PO BOX #616, NEW YORK, NEW YORK 10009 (212) 388-2712

TRANSMISSION VERIFICATION REPORT

TIME : 07/01/2008 20:52
NAME :
FAX :
TEL :
SER.# : 000D5J496330

DATE,TIME	07/01 20:48
FAX NO./NAME	12120856384
DURATION	00:03:35
PAGE(S)	28
RESULT	OK
MODE	STANDARD ECM

TRANSMISSION VERIFICATION REPORT

TIME : 07/01/2008 20:59
NAME :
FAX :
TEL :
SER.# : 000D5J496330

DATE,TIME	07/01 20:55
FAX NO./NAME	12126124284
DURATION	00:03:49
PAGE(S)	28
RESULT	OK
MODE	STANDARD ECM

Originals mailed prior to faxing on 7/1/2008
express mail via Kelly

UNITED STATES COURT OF APPEALS
UNITED STATES DISTRICT COURT
FOR THE SECOND CIRCUIT

08-4575 CV
(07-3849 CV)
(07-11554 SCUS)

(04 CV 08239 Jury Trial Demanded)

DEANNA MORRIS
432 East 14th Street
PO Box #616
New York, NY 10009

Plaintiff

- against -

ALES GROUP USA *and*
ERIC DOMEL
625 Madison Avenue
New York, NY 10022

Defendants

AFFIRMATION OF SERVICE

I, Deanna Morris, declare under penalty of perjury that I have served a copy of the attached Letter to the Clerk of the Court in reference to correct docket entries to reflect the actual date of filing as original stamp reflects in record and by whom filed 10 pages attached. Oral Argument Date Not Yet Assigned to on 08-4575cv upon: Ales Group USA and Eric Domel – defendants attorney Mr. Glen H. Parker c/o Hoey, King, Toker & Epstein #0307 3330 0001 9095 5028 whose address is: 55 Water Street, 28th Floor, New York, NY 100041 Tel (212) 612 - 4200 fax (212) 612-4284 (mail all and fax copy)

Dated: June 5, 2009

~~New York, New York~~

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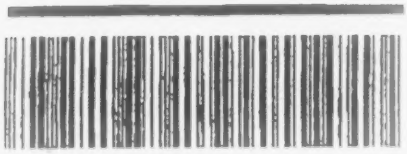

0307 3330 0001 9095 5035

Deanna Morris, ProSe
432 East 14th Street, PO Box #616
New York, NY 10009-3486
(212) 388-2712

432 East 14th Street, PO Box #616
New York, NY 10009-3486
June 4, 2009

Catherine O'Hagan Wolfe, Clerk of the Court
United States Court of Appeals for the Second District
Thurgood Marshall United States Courthouse
40 Foley Square
New York, New York 10007

RE: Deanna Morris v Ales Group USA and Eric Domel
04cv3829 USDC filed 08/31/2004 as original is stamped
07-3849cv USCA filed 08/13/2007 as original is stamped
08-4575cv USCA filed 08/22/2008 as original is stamped
07-11554 USSC filed 06/23/2008 as original is stamped

Dear Catherine O'Hagan Wolfe:

I am the Plaintiff-Appellant, Deanna Morris, appearing *Pro Se, Informa Pauperis* in the above entitled action. The reason that I am writing to you with a carbon copy to the Clerk, J. Michael McMahon, for the Southern District Court in reference to the above dockets in a continued, good faith, administrative effort to correct errors to dockets regarding the date documents have been filed. Appeal refers matter to the Clerk of the Court on page 129.

I am not sure where the errors have occurred but I have brought this matter up with the case manager as well as others at the court and have not been able to see a correction.

My "appeal as a right" (07-3849cv) has been denied to me as a result of these errors and I have been unjustly harmed. These issues have been repeatedly raised but have yet to be heard in the already established jurisdictions. Date order/judgment 7/27/07 NOA filed 8/13/07 – 10 business days. "*A Manual for Pro Se Litigants Appearing before the United States District Court for the Southern District of New York*" form Rev.05/2007 indicates, "*Note: You may use this form if you are mailing your notice of appeal and are not sure that the Pro Se Office of the Southern District of New York will receive it within thirty (30) days of the date on which the judgment was entered, or sixty days if the United States or an officer or agency of the United States is a party.*"

My "appeal as a right" (07-3849cv) was handled improperly and differently than I am experiencing with my now appeal under Rule 60 (08-4575cv). And although I had received a different case manager, my case was reassigned back to the current case manager.

Clearly there is a visible clerical docketing or Docketing Unit error that has affected all matters to follow. On page 131 of "*A Manual for Pro Se Litigants Appearing before the United States District Court for the Southern District of New York*," 2007 Edition, 2nd paragraph,

> "*To ensure the efficient processing of your Notice of Appeal, you should either pay the $455 fee or, if you are unable to do so, you should submit to the Southern District Pro Se*

Office an application to proceed in forma pauperis on appeal regardless of your initial IFP status. If the application is unnecessary because your IFP status is still in effect, the Pro Se Office will return it to you."

Apparently my IFP status was still in effect, my fee was never returned and more importantly, "*To ensure efficient process of your Notice of Appeal*" did not occur.

I noticed the initial error where on the docket for 04-cv-08239, for 08/13/2007 entry 97 "Notice of Appeal from [94] indicates Document filed by Eric Domel..." I found no record including inquiring if there were any hidden dockets or cases that involve me that I was not informed or aware of. As a result of the activities that I experienced and the sudden alienation of third parties and others who were suddenly afraid of free assemble, freedom of speech and their right to petition our government, it's clear that collateral activities have influenced this judicial process and my rights including the right to due process.

Although the Court claims that, "*Plaintiff does not suggest that the Court overlooked controlling law or factual matters not previously put before it*," is another example of how a gross misrepresentation continues, as a Pro Se litigant the facts are overlooked and summary judgments are made. If the legal reviewer or trier of the facts actually looked at the facts or were given an opportunity to look at the facts, equal access and equal protection would be honored and my Constitutional rights would not have been violated. A magistrate was assigned for discovery and a Report & Recommendation to be submitted to all parties afterwards pursuant to FRCP. The fact that under controlling laws and rules of civil procedure this R&R report was not provided yet a Summary Judgment was made referencing this also went overlooked although brought to the courts attention.

I am writing to you for your assistance, the Clerks Office where docketing is received and entered. Under my appeal (08-4575cv) for relief under Rule 60, Oral Argument not yet scheduled, I am not sure if this important fact (date filed) will be ignored again requiring additional litigation. So many other errors including fraud upon the court and the retaliation I have experienced as a result of exercising my protected rights, privileges and benefits will be addressed at that time as well.

I thank you in advance for your attention to this matter (in reference to the correction of docket entries to reflect the actual dates filed & by whom) and I look forward to hearing from the Clerks Office.

Sincerely,

Deanna E. Morris
Plaintiff – Appellant *Pro Se*
432 E 14th Street, PO Box #616
New York, New York 10009
deannamorris@aol.com
(212) 388-2712

cc: J. Michael McMahon, Clerk of Court
United States District Court
500 Pearl Street
New York, NY 10007
Glen H. Parker, Lead Attorney for Defendants
Hoey, King, Toker & Epstein
55 Water Street – 28th Floor
New York, NY 10041

Attachments to Letter to the Clerk's Office:

Page 1 – Page 131 from Pro Se Manual

Page 2 – Copy of USPS Money Order dated 8/13/2007 #09507277135 for $455.00 with a copy of receipt paid to the United States District Court for the Southern District invoice # 628091 on 9/26/2007 at 11:58:42 am for Deanna Morris 04cv08239 NOA. This payment was not accepted earlier when presented, I was told, because an Index had not been assigned to my case for the payment to be accepted at the cashiers' window. No Refund was ever issued although IFP status was continued. Efficient processing did not occur

Page 3 - Notice of Appeal onginal stamp USDC filed Aug 13 2007 SD of NY and USCA filed Sep 07 2007 Second Circuit. This is my "appeal as a right" being affected.

Page 4 to 6 – Appeal and Notice of Appeal forms from "*A Manual for Pro Se Litigants Appearing before the United States District Court for the Southern District of New York*" 2007 (Rev 05/2007 forms). This book was purchased when Appeal process had been initiated from the Pro Se Office paid for at cashier.

Page 7 to 8 - SDNY CM/ECF History/Document Query from Pacer submitted by defendants 08-4575cv as part of Appellee's Appendix. This docket also contradicts entries on public access docket particularly page AA6 No 93 and on-going as it indicates to my "appeal as a right " AA1 NO 2 Complaint entry filed - wrong

Page 9 – Public Docket copy 07-3849-cv indicating Date Filed: 10/19/04; Date order/judgment 7/27/2007 and Date NOA filed: 08/13/2007 Fee Status IFP Note: 10 business days filed per record.

Page 10 – Public Docket copy 08-4575-cv Date Filed: 10/19/04; Date order/judgment: 8/20/2008 and Date NOA filed 8/22/2008 Fee Status IFP

Page 11 – Cover of request to proceed In Forma Pauperis received Aug 31 2004 Pro Se Office and accepted/assigned by Judge Preska Oct 15, 2004 04 cv 08239

Page 12 – Cover of Complaint with "Jury trial demanded" received Aug 31, 2004 Pro Se Office 04 cv 08239

Page 13 – Docket Report 04-cv-08239 PAC-THK Page 1 of 11 entry 1 Date filed 10/19/2004

Page 14 - ref page 8 Page 11 of 11 entry 92 until 09/15/2007 Summary Judgement eneterd on 7/2/2007 and by the Clerk on 7/3/2007 not entry date of June 29 as entry #94 indicates.

Page 15 – Facsimile cover to judge's chambers and defendants' attorney on 7/1/2008
Affirmation of Service Attached

attachment to clerk's letter 6/4/2009

from "A manual for pro se litigants appearing before the United States District Court for the Southern District of New York." — 2007

to 28 U.S.C. § 1915(a)(3), then your IFP status still is in effect and no fee nor application to waive the fee is necessary. If, however, IFP status has been revoked or denied by the Judge, a new IFP application must be filed with the Southern District *Pro Se* Office, which will forward your IFP application to the Second Circuit for a ruling.

To ensure the efficient processing of your Notice of Appeal, you should either pay the $455 fee or, if you are unable to do so, you should submit to the Southern District *Pro Se* Office an application to proceed *in forma pauperis* on appeal regardless of your initial IFP status. If the application is unnecessary because your IFP status still is in effect, the *Pro Se* Office will return it to you.

Interlocutory Appeals

Generally, only final decisions by the Judge can be appealed to the Second Circuit. In some limited circumstances, you may appeal a non-final decision while your case is ongoing. These types of appeals are called *interlocutory appeals*. The limited circumstances in which you may seek an interlocutory appeal are set forth in 28 U.S.C. § 1292. For example, under § 1292(a)(1), you may bring an interlocutory appeal to the Second Circuit from a Judge's order granting, denying, or modifying injunctive relief. Also, you may be granted permission by the Judge to take an interlocutory appeal to the Second Circuit when, under § 1292(b), the Judge certifies, in writing, that the order appealed from "involves a controlling question of law as to which there is substantial ground for difference of opinion and that an immediate appeal from the order may materially advance the ultimate termination of the litigation . . ." 28 U.S.C. § 1292(b).

If you are bringing an interlocutory appeal under § 1292(a), you must file a Notice of Appeal in the Southern District *Pro Se* Office within ten (10) days of the date of the entry on the docket of

page 1

UNITED STATES POSTAL SERVICE®

CUSTOMER'S RECEIPT

KEEP THIS RECEIPT FOR YOUR RECORDS	PAY TO: United States District Court Clerk	SEE BACK OF THIS RECEIPT FOR IMPORTANT CLAIM INFORMATION
	ADDRESS: 500 Pearl NYC 10007 Appeal Appeal	NOT NEGOTIABLE
	C.O.D. OR USED FOR: 07CV8236 07CV8236 docket #	

SERIAL NUMBER	YEAR, MONTH, DAY	POST OFFICE	AMOUNT	CLERK
03507277335	2007-08-13	212082	$ 455.00	0004

ORIGINAL-WHITE DUPLICATE-YELLOW TRIPLICATE-PINK

RECEIPT FOR PAYMENT

UNITED STATES DISTRICT COURT

for the

SOUTHERN DISTRICT OF NEW YORK

E

81

RECEIVED FROM

Fund		
6855XX	Deposit Funds	
604700	Registry Funds	
	General and Special Funds	
508800	Immigration Fees	
085000	Attorney Admission Fees	
086900	Filing Fees	
322340	Sale of Publications	
322350	Copy Fees	
322360	Miscellaneous Fees	
143500	Interest	
322380	Recoveries of Court Costs	
322386	Restitution to U.S. Government	
121000	Conscience Fund	
129900	Gifts	
504100	Crime Victims Fund	
613300	Unclaimed Monies	
510000	Civil Filing Fee (½)	
510100	Registry Fee	

DATE/TIME: 9/26/2007 11:58:42 AM
CASHIER: LATECIA
STATION: 01

APPEAL 4/04 $455.00
086900 $105.
510000 $150.
086400 $200

Checks and drafts are accepted subject to collection and full credit will only be given when the check or draft has been accepted by the financial institution on which it was drawn.

DEPUTY CLERK

DATE	Cash	Check	M.O.	Credit
20				

PRO SE OFFICE

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

04 CV 08239 (LAK) (THK)
Jury Trial Demanded

S. DISTRICT COURT FILED
AUG 13 2007
S. D. OF N.Y.

DEANNA MORRIS
432 East 14th Street
PO Box #616
New York, NY 10009

Pro Se Plaintiff

NOTICE OF APPEAL

- against -

ALES GROUP USA and
ERIC DOMEL
625 Madison Avenue
New York, NY 10022

Defendants

UNITED STATES COURT OF APPEALS FILED
SEP 07 2007
SECOND CIRCUIT

Notice is hereby given that Deanna Morris
(PARTY)
hereby appeals to the United States Court of Appeals for the Second Circuit from the Decision (s) (describe it) Granting defendants Motion for Summary Judgment, Memorandum + Decision Order; failure to receive Magistrate's Report + Recommendation; Issues I filed were never addressed; refusal to be heard; The docket record, omissions + errors in orders denied including timelines with weekends + holidays included; reopening the case to address the pro. reconsideration request denied with prejudice "for reasons stated" but does not exist no record be given to Plaintiff. Any refusal contrary to Complaint filed.
entered in this action on the 2nd/3rd day of July, 20 07.

Deanna Morris
Signature

Deanna Morris
Print Name

432 E 14th Street, PO Box #616
New York NY 10009-3486
(212) 389 0412
Telephone No. (With Area Code)

Date: August 2007

page 3

APPEALS

A final decision by the Judge may be reviewed by a higher federal court – the appeals court – if the losing party files a Notice of Appeal. Appeals from cases in the Southern District of New York are heard by the United States Court of Appeals for the Second Circuit ("Second Circuit"). Grounds for an appeal usually consist of allegations that the Judge made an error either in interpreting the law or in a procedural ruling during the course of the case. Any error must have been sufficiently significant so that the Judge or jury reached an incorrect decision as a result of the error.

In general, only *final orders or judgments* from the district court may be appealed. 28 U.S.C. § 1291. This kind of appeal is called an *appeal as of right*. In most cases, a final order or judgment is entered when all issues in the case have been resolved in favor of either the plaintiff or the defendant. In order to appeal, a *final order or judgment* should be entered on the docket of your case. A *final order or judgment* is the document which announces the final decision with respect to your case (that is, whether you won or lost) and closes the case with the district court.

You have thirty (30) days from the date that the final order or judgment was entered on the docket to file a Notice of Appeal in the Southern District's *Pro Se* Office. A Notice of Appeal is a one-page document containing your name, a description of the final order or judgment (or part thereof) being appealed, and the name of the court to which the appeal is taken (the Second Circuit). A Notice of Appeal form is included in this manual.

Once you file a Notice of Appeal, the District Court no longer has jurisdiction over your case and all questions regarding the case or the Second Circuit's procedures should be addressed to the Clerk of the Second Circuit.

PUBLIC DOCKET FOR
Second Circuit Court of Appeals

INDIV
CLOSED

Court of Appeals Docket #: 07-3849-cv
Nsuit: 442 CIVIL RIGHTS-Jobs
Morris v. Ales Group USA, Inc.
Appeal from: SDNY (NEW YORK CITY)

Filed: 9/7/07

Case type information:
Civil
Private
None

Lower court information:
District: 04-cv-8239
Trial Judge: Paul A. Crotty
MagJudge: Theodore H. Katz
Date Filed: 10/19/04
Date order/judgement: 7/27/2007
Date NOA filed: 8/13/2007

To whom or Clerk of the Court,
Note: Date filed was 8/31/2004 at Pro Se office as received and original document reflects stamp
Notice of Appeal filed 8/13/2007 not 9/7/07 or thereafter
pro se plaintiff - appellant

Fee status: IFP

Panel Assignment:
Panel: RAK RR RDS 500 Pearl St., Ceremony

Date of decision: 2/26/08

Prior cases: NONE

Current cases: NONE

page 9

PUBLIC DOCKET FOR
Second Circuit Court of Appeals

INDIV
OPEN

Court of Appeals Docket #: 08-4575-cv
Nsuit: 442 CIVIL RIGHTS-Jobs
Morris v. Ales Group USA, Inc.
Appeal from: SDNY (NEW YORK CITY)

Filed: 9/17/08

Case type information:
Civil
Private
None

Lower court information:
District: 04-cv-8239
Trial Judge. Paul A. Crotty
MagJudge. Theodore H. Katz
Date Filed: 10/19/04 → 8/31/04 Filed, stamped at Pro Se Office August 31, 2004 As record shows, 04 CV 08239
Date order/judgement: 8/20/2008
Date NOA filed: 8/22/2008

Fee status: IFP

Panel Assignment:
Panel:
Date of decision:

Prior cases: NONE 073849 CV
Current cases: NONE 073849 CV, 07-11554

I filed my complaint with USDC, 500 Pearl St 2nd floor Pro Se Office on August 31, 2004. The documents in record are stamped to reflect. Previously noted the docket sheet is riddled with errors that have some immediate [illegible] page 10

JUDGE PRESKA 23a 04 CV 08239

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Deanna Morris

Plaintiff

-vs-

#1 Alea Group USA, Inc.

Defendant(s)

"Jury trial demanded"

AUG 13 2004

KCJ

REQUEST TO PROCEED
IN FORMA PAUPERIS

I, Deanna Morris, am the plaintiff in the above entitled case. I hereby request to proceed without being required to prepay fees or costs or give security therefore. I state that because of my poverty I am unable to pay the costs of said proceeding or to give security therefore, and I believe I am entitled to redress.

1. If you are presently employed:
   a) give the name and address of your employer
   b) state the amount of your earnings per month.

not Employed, currently receiving 3rd party public assistance

2. If you are **NOT PRESENTLY EMPLOYED**:
   a) state the date of start and termination of your last employment
   b) state your earnings per month.

YOU MUST ANSWER THIS QUESTION EVEN IF YOU ARE INCARCERATED.

November 14, 2003 upon receipt of termination acknowledge and COBRA Eligibility documents

3. Have you received, within the past twelve months, any money from any source? If so, name the source and the amount of money you received.

3rd party

a) Are you receiving any public benefits? ☐ No. ☒ Yes, $ 1300 month rental $1500 + $400 cash assistance

b) Do you receive any income from any other source? ☐ No. ☒ Yes, $ 400 per month / 3rd party assistance

RECEIVED
AUG 31 2004
PRO SE OFFICE

page 11

JUDGE PRESKA

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Deanna Morris
432 East 14th Street, Box 616
New York, NY 10009-3486
NAME OF PLAINTIFF(S)

"Jury trail demanded"

04 CV 08239
COMPLAINT

v.

Ales Group USA, Inc.
625 Madison Avenue, 2FL
New York, NY 10022
NAME OF DEFENDANT(S)

This action is brought for discrimination in employment pursuant to *(check only those that apply)*:

✓ Title VII of the Civil Rights Act of 1964, as codified, 42 U.S.C. §§ 2000e to 2000e-17 (amended in 1972, 1978 and by the Civil Rights Act of 1991, Pub. L. No. 102-166) (race, color, gender, religion, national origin).
NOTE: In order to bring suit in federal district court under Title VII, you must first obtain a right to sue letter from the Equal Employment Opportunity Commission.

✓ Age Discrimination in Employment Act of 1967, as codified, 29 U.S.C. §§ 621 - 634 (amended in 1984, 1990, and by the Age Discrimination in Employment Amendments of 1986, Pub. L. No. 99-592, the Civil Rights Act of 1991, Pub. L. No. 102-166).
NOTE: In order to bring suit in federal district court under the Age Discrimination in Employment Act, you must first file charges with the Equal Employment Opportunity Commission.

____ Americans with Disabilities Act of 1990, as codified, 42 U.S.C. §§ 12112 - 12117 (amended by the Civil Rights Act of 1991, Pub. L. No. 102-166).
NOTE: In order to bring suit in federal district court under the Americans with Disabilities Act, you must first obtain a right to sue letter from the Equal Employment Opportunity Commission.

RECEIVED
AUG 3 1 2004
PRO SE OFFICE

APPEAL, CASREF, CLOSED

U.S. District Court
United States District Court for the Southern District of New York (Foley Square)
CIVIL DOCKET FOR CASE #: 1:04-cv-08239-PAC-THK
Internal Use Only

Morris v. Ales Group USA, Inc.
Assigned to: Judge Paul A. Crotty
Referred to: Magistrate Judge Theodore H. Katz
Cause: 42:2000e Job Discrimination (Employment)

Date Filed: 10/19/2004
Date Terminated: 06/29/2007
Jury Demand: Plaintiff
Nature of Suit: 442 Civil Rights: Jobs
Jurisdiction: Federal Question

Plaintiff

Deanna Morris

represented by **Deanna Morris**
432 East 14th Street
P.O.Box 616
New York, NY 10009-3486
PRO SE

V.

Defendant

Ales Group USA, Inc.

represented by **Glen Howard Parker**
Hoey, King, Toker & Epstein
55 Water Street 28th Floor
New York,, NY 10041
(212) 612-4230
Fax: (212)-612-4284
Email: gparker@hoeyking.com
LEAD ATTORNEY

J. MICHAEL McMAHON
CLERK OF COURT
BY
DEPUTY CLERK

Defendant

Eric Domel

represented by **Glen Howard Parker**
(See above for address)
LEAD ATTORNEY

Date Filed	#	Docket Text
10/19/2004	1	ENDORSEMENT on Declaration in Support of Request to Proceed In Forma Pauperis, I.F.P. REQUEST IS Granted. (Signed by Judge Michael B. Mukasey on 10/15/04) (dle,) (Entered: 10/26/2004)
10/19/2004	2	COMPLAINT against Ales Group USA, Inc.. Document filed by Deanna Morris.(dle,) (Entered: 10/26/2004)
10/19/2004		SUMMONS ISSUED as to Ales Group USA, Inc.. (dle,) (Entered: 10/26/2004)
10/19/2004		Magistrate Judge Theodore H. Katz is so designated. (dle,) (Entered: 10/26/2004)
12/01/2004	3	ORDER REFERRING CASE TO MAGISTRATE JUDGE. Order that case be referred

		of Plaintiff's discrimination, retaliation, sexual harassment and fraud claims as a matter of law, as well as on the grounds of mootness. Accordingly, the Defendants' motion for summary judgment is GRANTED and Plaintiff's claims are dismissed with prejudice. The Clerk of the Court is ordered to close out this case. So Ordered. (Signed by Judge Paul A. Crotty on 6/28/07) (js) (Entered: 07/02/2007)
06/29/2007	93	CLERK'S JUDGMENT That for the reasons stated in the Court's Memorandum and Order dated June 28, 2007, defendants motion for summary judgment is granted and plaintiffs claims are dismissed with prejudice, accordingly, the case is closed. (Signed by J. Michael McMahon, clerk on 6/29/07) (ml) (Entered: 07/03/2007)
07/18/2007	95	MOTION for an order for Reconsideration re; 92 Memorandum & Opinion,. Document filed by Deanna Morris (pl) (Entered: 07/30/2007)
07/27/2007	94	ORDER: Pro se plaintiff Deanna Morris filed this Motion for Reconsideration of the Courts June 28, 2007 Order granting Defendants motion for summary judgment and dismissing the action. Plaintiffs motion, however, is untimely. A party must file a Motion for Reconsideration of an order resulting in a judgment within ten (10) business of entry of judgment. Local Civil Rule 6.3. Plaintiffs motion, filed July 18, 2007, was not filed within ten days of the June 29, 2007 entry of judgment. See Fulani v. Brady, et al., 149 F.R.D. 501, 503 (S.D.N.Y. 1993), aff'd, 35 F.3d 49 (2d Cir. 1994). Even if the motion were timely, it would nonetheless be denied. Plaintiff does not suggest, let alone demonstrate, that the Court overlooked controlling decisions or factual matters that were put before it on the underlying motion, as required by Local Civil Rule 6.3. See id. Plaintiff merely rehashes the same objections to Magistrate Judge Katzs discovery rulings, which this Court has twice reviewed, and twice upheld. (See Mar. 26, 2006 Order & Mar. 30, 2007 Order.) Plaintiffs Motion for Reconsideration is DENIED. (Signed by Judge Paul A. Crotty on 07/27/2007) (mov) (Entered: 07/27/2007)
08/13/2007	97	NOTICE OF APPEAL from [94] Order,,,,. Document filed by Eric Domel. Copies mailed to the attorneyd of record: Ales Group USA and Eric Domel. (dt) (Entered: 09/05/2007)
08/13/2007		Appeal Remark as to [97] Notice of Appeal filed by Eric Domel. I.F.P. GRANTED 10/18/04. (dt) (Entered: 09/05/2007)
08/22/2007	96	ENDORSED LETTER addressed to Judge Crotty from Deanna Morris dated 08/07/2007 re: Reconsideration. ENDORSEMENT: Treating this as a motion for reconsideration, it is again DENIED. The Court adheres to its order of July 27, 2007 Plaintiff does not suggest that the Court overlooked controlling law or factual matters not previously put before it. So Ordered. (Signed by Judge Paul A. Crotty on 08/21/2007) "Copies Mailed By Chambers".(mov) (Entered: 08/22/2007)
09/05/2007		Transmission of Notice of Appeal and Certified Copy of Docket Sheet to US Court of Appeals re: [97] Notice of Appeal. (dt) (Entered: 09/05/2007)
09/05/2007		Transmission of Notice of Appeal to the District Judge re: [97] Notice of Appeal. (dt) (Entered: 09/05/2007)

page 14

Removal from Payroll; *Claim 2*: **Unlawful Failures to Hire**; *Claim 3*: **Replacement of Specific Brand Manager by Norma Lujan**; *Claim 4*: **Unlawful Termination of Employment**; *Claim 5*: **Fraud**; *Claim 6*: **Sexual Harassment**; *Claim 7*: **Retaliation for the Exercise of Protected Rights** *(nationality, age, race, color, etc.)* and *Claim 8*: **Age Discrimination**) with the Federal Court according to the guidelines provided with a Jury Trial demanded on August 31, 2004 and later filed an Amended Complaint at the defendants' request, "*to do so now*."

3. On January 21, 2010 this matter was HEARD before Justices, WALKER, STRAUB, POOLER. I was requested to by Justice

> "... your time is up, you have certainly given us things to look for you may file... file with the Clerk of the Court page references, and of course a copy to opposing counsel, I guess you should direct us to not just a FedEx receipt but one that is signed... Okay, we'll investigate this or do whatever is appropriate." - Per Audio CD from 9th Floor Ceremonial Courtroom.

4. Defendants' counsel, Glen Parker farther indicated at 12:03:17:

> **Parker**: For many independent reasons, I we request that you affirm the decision of Judge Crotty denying Plaintiff's Rule 60 Motion as you have raised just previously with the Plaintiff ... the Circuit Court Dismissed Plaintiff's first appeal
>
> **Justice**: But she says it was wrongly entered into our docket sheet?
>
> **Parker**: I, ah I'm not sure and ah that's another thing, I for one thing didn't received that appendix, the second thing ah, she never identified anything in her papers, she never identifies anything that was wrongly entered, the only thing that I ever been able to understand that she claims was wrongly entered is ... What Plaintiff identifies in her papers as the basis for the Rule 60 Motion here is Fraud. It's throughout her papers, she claims that the defendants worked a fraud upon this Court. And she says so in conclusionary terms, she never identified actually how it was done. Was it done by specific documents or was

it done by verbal communication to the Court? Neither which is identified and without which I have no basis to defend it and also the court has no basis from which to actually make a decision saying that there was or wasn't a fraud. The other issue is on the more technical basis, is that the Plaintiff's notice of appeal is actually untimely, the Plaintiff had 30 days given that this is a Civil Appeal, her Appeal from the denial of the Rule 60 Motion was made beyond the 30 day period.

Justice: By how much?

Parker: One day.

Justice: And that is the filing issue here?

Parker: No, well that's not the filing issue here, I don't know> Ah, ah,

Justice: It's dated June 29th by the Court but the document you have directed us to is filed July 2nd.

Parker: I don't know if the Plaintiff is claiming that any other documents that needs to be corrected under Rule 60. Rule 60(a) if correcting a clerical error… that was never brought before the Court below, what was brought before the Courts below was that defendants procured the original judgment and everything through fraud… she never presented anything to the Court, that I have seen, indicating that this document should have been entered on this date and that it wasn't or presenting the actual document showing that it was presented differently than what I represented to the Courts below… the other thing is that given that this is a Rule 60 Motion based on Fraud the statute of limitations is one year, the Plaintiff, either if it was July 7th or July 8th or whatever date that she actually filed the Rule 60 Motion, it is beyond the one year statute of limitations because the original judgment as I showed you before is July 2nd, so it is more than one year there. The final, I know my time is short, but the final thing is that this Rule 60 Motion is really just a second attempt by the Plaintiff to litigate the merits of the underlying dismissal which she cannot do which the case law is very clear you cannot use a Rule 60 Motion or the appeal of which in order to attack or to make a collateral attack on the underlying judgment that was dismissed.

Justice: Counsel before you leave the podium, I just want to make sure that I understand what you said, did you say that you were never served what is called "Appendix to Appellant's Supplemental Reply Brief?"

Parker: Could you just lift up that?

Justice: This document, you were never served with it?

Parker: Not, not I was not served with

Justice: stamped in June 22, 2009

Parker: Yes, I've ah, it's not in my file, I do not have it, what I have is ah her

Justice: You do not have this document?

Parker: No, I do not. Her Brief, I never received, I just have this document that's why I created my own Appendix the Appellees Appendix because I would not have spent the time and money if something had, or if I had known that something had been submitted to the Court already.

Justice: Ms. Morris you have one minute, and I had asked you previously to direct us to pages, but if you never served it on-

Morris: It's in correct, he's um ah, I'm sorry, flat out wrong. And I submitted

Justice: Do you have an affidavit of service?

Morris: It's attached with the documents that's attached to the documents that's in this actual federal record.

Justice: And you say you mailed it o him?

Morris: I, I mailed it to him and because of this type of thing, and he does it very professionally or eloquently where he comes up before the court and he does not remember or did not receive something. When if anyone, and I don't know if this will be resolved here within this court, but I do know for a fact that if anyone was ever to take a look at the documents, I am not lying, the dates are clear. The order that came from the appellant court, it was dated February 26th, and it indicated that pursuant to Rule 60 that relief was still available to me, the actual document was entered July 2nd and 3rd, on July 1st I faxed a copy directly to Chambers after calling Chambers speaking to the gentleman, and he said, I'm sorry, Mr. Marlon Ovalles, Deputy Clerk he said it was okay for me to go ahead and fax it. I faxed it then went to Express Mail and mailed both copies to him and the Chambers-

Justice: Did you include a receipt?

Morris: So it was within 365

Justice: Is the receipt in the file?

Morris: It's attached in my records, everything I submitted I started doing in certified mail because I realized that there was trickery going on with this

> gentleman. And I did indicate to the lower courts exactly the documents and exactly what was happening. And when I asked for the Report & Recommendation that's mentioned in the Judge's final orders I never received it. ...

5. Plaintiff's Motion for Relief pursuant to Rule 60 was filed July 1st via fax to all parties with a hard copy expressed mail (postmarked) on July 1st – the entry date of Order was July 2nd & 3rd which is within 365 days – within one year.
6. Plaintiff reiterates her apology for the burden posed on this Court by appearing Pro Se but due to the many circumstances beyond my control and these fraud accusations conspired by defendants and attorneys for exercising her protected rights, Plaintiff has lawfully filed these complaints with this Court and continues to seek appropriate assistance, protection or representation as capable under the circumstances.
7. Pro Se Plaintiff at every step of her employment, thereafter and subsequently here in this Court Plaintiff has attempted to minimize the burden in exercising my privileges and protected rights for complete and lawful resolution by focusing on the facts with the resources available to me. Plaintiff does not mean or intend to cause any harm or embarrassment to any and all parties involved in this matter. As the docket sheet will support and copies have been entered in record, Plaintiff is unable to duplicate the entire printing again for this submission.
8. Pro Se Plaintiff respectfully objects and disagrees to the misinformation and distortion of the facts. At all times, Pro Se Plaintiff has sought to have ALL THE FACTS ABAILABLE for the legal trier and reviewer of the facts. The information is contradictory to evidence supported and have been entered in this record.
9. I have included **Appendix A** – ***Appellant's Affirmation in Support of Oral Argument Record Due Back*** that was submitted under separate cover with the "Record Due Back."